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In re Application of
BISIULES, et al. : DECISION ON
Application No.: 10/529,677 :
PCT No.: PCT/US03/36256 : REQUEST UNDER
Int. Filing Date: 13 November 2003 :
Priority Date: 13 December 2002 : 37 CFR 1.497(d)
Attorney Docket No.: 90959US :
For: IMPROVEMENTS RELATING TO DIPOLE
ANTENNAS AND COAXIAL TO MICRO-
STRIP TRANSITIONS :

This decision is in response to applicant's "Petition Pursuant to 37 C.F.R. §1.497(d) to Add a Joint Inventor" filed 28 February 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 November 2003, applicant filed international application PCT/US03/36256, which claimed priority of an earlier application filed 13 December 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 13 June 2005.

On 29 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary Amendment and un-executed declaration.

On 30 December 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 28 February 2006, applicant filed the present petition to add Ching-Shun Yang as an inventor in the above-identified application.

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;
- (3) the fee set forth in 37 CFR 1.17(I); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant has satisfied items (1)-(3).

As to Item (4), applicant has not provided a statement granting the consent of the assignee. Assignee is required to establish its ownership in accordance with 37 CFR 3.73 (See MPEP 201.03 and 324).

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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